



COMMISSIONER FOR
BETTER REGULATION

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20 March 2018

Mr Paul Salter
Director, Policy and Regulation,
Policy and Reform Division
Transport for Victoria
Level 21, 1 Spring Street
MELBOURNE VIC 3000

Dear Mr Salter

Paul

**REGULATORY IMPACT STATEMENT FOR THE COMMERCIAL PASSENGER VEHICLE INDUSTRY
REGULATIONS 2018**

I would like to thank the staff of Transport for Victoria (TfV) for working with the Office of the Commissioner for Better Regulation on the preparation of the Regulatory Impact Statement (RIS) for the proposed Commercial Passenger Vehicle Industry Regulations 2018 and Road Safety Road Rules (Commercial Passenger Vehicle Industry) Amendment Rules 2018.

As you know, under section 10 of the *Subordinate Legislation Act 1994*, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of all RIS prepared in Victoria. The Commissioner's role is to advise on the adequacy of the analysis presented in the RIS, rather than the merits or otherwise of policy or regulatory proposals. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 20 March 2018 meets the adequacy requirements of the *Subordinate Legislation Act 1994*.

The Victorian Government has recently undertaken major reforms to the commercial passenger vehicle industry. This has resulted in a new *Commercial Passenger Vehicle Industry Act 2017* (the CPVI Act), which replaces the law governing the commercial passenger vehicle industry under the *Transport (Compliance and Miscellaneous) Act 1983*.

TfV has prepared this RIS to inform the Government's consideration of the proposed Regulations to be made under the CPVI Act. TfV's preferred approach is reflected in the exposure draft of the Regulations. There are a number of matters that are not in the exposure draft but about which TfV has presented options in the RIS and is seeking further information and feedback. A decision about these matters will be determined before the Regulations are finalised. The RIS also considers the merits of some changes to the Road Safety Road Rules, which are consequential to, and clarify the application of those Rules in light of, the enactment of the CPVI Act.

In broad terms, the Regulations prescribe safety and other operational requirements, and establish consumer protections for users of commercial passenger vehicle services — booked and unbooked, including rideshare services. The aim is to meet objectives for driver and passenger safety, transparency in transactions and reducing information barriers, while minimising regulatory costs.

The proposed Regulations incorporate many, but not all, of the elements already required under the previous Regulations for the commercial passenger vehicle industry — the Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles) (Taxi-Cab Industry Accreditation and Other Matters) Regulations 2017. Specific requirements in the proposed Regulations include the following.

Requirement	Applies to unbooked and/or booked services?	New, modified or existing requirement
Safety		
A security camera must be installed and operating.	Vehicles providing unbooked services in Melbourne Metropolitan and Urban and Large Regional Zones.	Existing.
Booking service providers must establish and maintain a register of safety risks.	Booked and affiliated unbooked service providers.	New.
Certain types of incidents must be notified to the regulator.	Unbooked and booked.	New.
Driver identification to be displayed by accredited drivers.	Unbooked and booked.	Modified.
Consumer protection		
Fare calculation devices must be used.	Unbooked.	Existing.
Booking service providers must have a complaints management system that complies with the Australian standard.	Booked and associated unbooked service providers.	Existing.
Fare information must be displayed in the vehicle and provided when requested by the hirer.	Unbooked and booked.	Modified.
Booking service providers and drivers must provide a fare estimate when requested by the hirer.	Unbooked and booked.	New.
Receipt, containing certain information, must be provided to customers on request.	Unbooked and booked.	Modified.
Operational requirements		
Certain types of vehicle identification must be displayed while a commercial passenger vehicle is in service.	Unbooked and booked.	Modified.
Smoking in vehicles is prohibited.	Unbooked and booked.	Existing.
Drivers cannot refuse to accept assistance animals.	Unbooked and booked.	Existing.
Drivers must give reasonable passenger assistance and take the route nominated by the passenger or the most direct and practicable route.	Unbooked and booked.	Existing.
Matters to be included in an identity card for an authorised officer	Not applicable.	Existing.
Record-keeping		
Booking services providers must keep records about booking information and complaints.	Booked and associated unbooked service providers.	Existing.
Registered person of vehicle must keep trip information.	Unbooked and booked.	Existing.

TfV has proposed not to remake a number of the current regulations, such as those relating to livery and uniforms, which it considers will help to reduce regulatory burdens, without compromising customer service or safety. As noted in the RIS, this reflects TfV's view 'that the competitive setting for the market for commercial passenger vehicle services is now sufficient to no longer warrant heavy-handed service quality regulation'.

TfV also proposes to largely carry over exemptions from the Road Rules that currently apply to taxis, and apply them to unbooked commercial passenger services, but has proposed removing the exemption allowing taxis to carrying children without a child restraint. This means an appropriate type of child restraint will need to be used in all commercial passenger vehicles when children are passengers. The proposed Regulations do not, however, require all commercial passenger vehicles to carry child restraints.

Because of data constraints, and the intangible nature of some costs and benefits, it is not feasible to quantify precisely the costs and benefits of the options examined. Therefore, to analyse and explain the effects of options, and determine the preferred approach, TfV has used a combination of qualitative and quantitative evidence. It has also taken into account:

- differences in the nature and extent of the issues facing different market segments, particularly booked and unbooked services; and
- the changing competitive environment of the industry, as reflected in the CPVI Act.

The RIS transparently outlines the assumptions underlying — and uncertainties associated with — the analysis, and the rationale for the judgements made.

Based on the assumptions outlined in the RIS, the estimated total cost of the proposed Regulations is about \$6.3 million per year on average, plus the one-off costs of the vehicle identification requirements of \$800,000 (or \$54.2 million over 10 years in net present value terms). Many of these costs would be incurred under the current Regulations, and most (\$5.7 million per year) are attributable to the purchase and installation of security cameras, which is an existing requirement. The RIS notes that there is some uncertainty about whether the benefits of the security camera requirement will outweigh the quantified costs, but TfV considers that the requirement will, on balance, reduce and deter assaults and crime, and facilitate the general enforcement and investigation of crime occurring in or near commercial passenger vehicles used to provide unbooked services in the Melbourne Metropolitan and Urban and Large Regional Zones, where it considers the safety risks are relatively higher. Moreover, the RIS may overestimate the costs of the regulation in practice because some operators might choose to install a camera even if not required to do so by the Regulations.

As the RIS notes, the new legislative and regulatory framework 'is a substantial departure from how the industry has been regulated'. In the context of this type of reform, outcomes in practice are necessarily uncertain, making it especially important to establish effective monitoring and evaluation strategies. Recognising this, the RIS includes a commitment for the regulator and TfV to 'work closely together to identify areas of improvement on a continuous basis', and outlines a detailed evaluation and data collection strategy to help to inform:

- a mid-term review of the new legislation and proposed Regulations to assess how these are operating together, which will occur about five years after the new legislative framework begins (i.e. commencing in 2023); and

- a 'sunset' review that will commence about 12 to 18 months before the expiry of the proposed Regulations in 2028, to evaluate the effectiveness of the proposed Regulations and inform whether they should be remade in part or in full.

It is government practice that this letter be published with the RIS when it is released for public consultation.

Should you wish to discuss any issue raised in this letter, or the implications of new information or policy options identified through the public consultation process for your proposal, please do not hesitate to contact me on (03) 9092 5800.

Yours sincerely



Anna Cronin

Commissioner for Better Regulation